

REMARKS

The claims remaining in the present application are Claims 1-20. The Examiner is thanked for performing a thorough search. Claims 1, 2, and 8-14 have been amended. No new matter has been added. For example, support for the amendments to the independent Claims 1, 8 and 14 can be found, among other places, in the instant application serial no. 10/801,247 at page 8 lines 8-13, which state,

A power pricing plan control component can make the changes in a manner that optimally balances power costs and performance of processing activities. For example, continue to provide power to high priority processing activities while reducing power supplied to lower priority processing activities...

CLAIM REJECTIONS

35 U.S.C. §101

Claims 8-13

In paragraph 2, the Office Action rejected Claims 8-13 under 35 U.S.C. 101 as non-statutory. The Office Action states, "...the claims are non-statutory as not being tangibly embodied in a manner so as to be executable."

Applicants respectfully submit that any one of ordinary skill in the art would understand that "computer-useable storage medium comprising computer-readable program code embodied therein for causing a computer system to implement a ... instructions" (emphasis added) is tangible and includes instructions that can be executed. However, for the sake of expediting prosecution of the instant application serial no. 10/801,247, Applicants have amended independent Claim 8 to recite "...execute...instructions..." instead of "...implement... instructions..." The dependent Claims 9-13 have also been amended to recite "computer executable instructions." Therefore, Applicants believe that these rejections have been addressed.

35 U.S.C. §103

Claims 1-20

In paragraph 4, the Office Action rejections Claims 1-20 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,718,213 by Enberg (referred to

hereinafter as "Enberg"). Applicants respectfully submit that Enberg does not teach or suggest embodiments recited by the claims.

Amended independent Claim 1 recites,

A power pricing plan rack equipment control method comprising: establishing a power pricing plan for operating rack equipment; and controlling operation of said rack equipment in accordance with said power pricing plan, wherein said power pricing plan enables said rack equipment to provide more power to a higher priority processing activity while providing less power to a lower priority processing activity.

The Office Action states in the first sentence on page 3 that Enberg fails to teach rack equipment. Applicants respectfully agree that Enberg fails to teach rack equipment. Applicants also believe that Enberg fails to teach or suggest "wherein said power pricing plan enables said rack equipment to provide more power to a higher priority processing activity while providing less power to a lower priority processing activity," as recited by Claim 1. For example, at Col. 2 lines 22-24, Enberg states,

A processor outputs a control signal to the power reduction device to decrease the power delivered to the load in response to a rise in the price of electricity and increase the power delivered to the load in response to a decrease in the price of electricity.

Applicants do not understand Enberg to teach or suggest at Col. 2 lines 22-24 "wherein said power pricing plan enables said rack equipment to provide more power to a higher priority processing activity while providing less power to a lower priority processing activity," as recited by Claim 1

Therefore, independent Claim 1 should be patentable. For similar reasons, independent Claims 8 and 14 should also be patentable. Claims 2-7 depend on Claim 1. Claims 9-13 depend on Claim 8. Claims 15-20 depend on Claim 14. These dependent claims include all of the features of their respective independent claims. Therefore, these dependent claims should also be patentable.

Further, these dependent claims include additional features which further make them patentable. For example, Claim 11 recites, "...generating a command to postpone processing." The Office Action asserted that Enberg teaches the embodiment recited by Claim 11 at Col. 6 lines 12-14. Enberg states at Col. 6 lines 12-14, "E-O.01: This output port provides a digital ON-OFF signal which can be

output to a contactor connected to a load to turn on and off the load.” Applicants do not believe that turning a load on and off teaches or suggests postponing processing. In another example, Claim 20 recites, “a cross indexing component for cross indexing said equipment information and said power pricing plan policy information.” The Office Action asserted that Enberg teaches the embodiment recited by Claim 20 in the title, the abstract, Col. 2 lines 25+ and Col. 2 lines 22-25. Applicants do not understand Enberg’s title, abstract, Col. 2 lines 25+ or Col. 2 lines 22-25 to teach or suggest “a cross indexing component for cross indexing said equipment information and said power pricing plan policy information.”

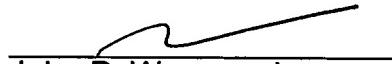
CONCLUSION

In light of the above listed amendments and remarks, reconsideration of the rejected claims is requested. Based on the arguments and amendments presented above, it is respectfully submitted that Claims 1-20 overcome the rejections of record. For reasons discussed herein, Applicants respectfully request that Claims 1-20 be considered by the Examiner. Therefore, allowance of Claims 1-20 is respectfully solicited.

Should the Examiner have a question regarding the instant amendment and response, the Applicants invite the Examiner to contact the Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,
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